

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DARREYLL T. THOMAS,

Plaintiff,

ORDER

v.

13-cv-597-wmc

DEPUTY MICHAEL REESE, *et al.*,

Defendants.

State inmate Darreyll T. Thomas filed this civil action pursuant to 42 U.S.C. § 1983, concerning the conditions of his confinement at the Dane County Jail. After screening the complaint as required by the Prison Litigation Reform Act (PLRA), 28 U.S.C. § 1915(A), the court granted Thomas's request for leave to proceed with claims of excessive-force and/or failure to intervene against defendants Michael Reese, Robin Hampton, Robert Van Norman, Christopher Larsh and John Does 1 through 5. Thomas has now filed a motion for reconsideration regarding his bunk-bed assignment at the Jail. He also requests clarification whether he may proceed with claims of retaliation and with state law negligence and battery claims. Both requests are addressed briefly below.

Thomas's motion for reconsideration is construed as one seeking to alter or amend the screening order under Fed. R. Civ. P. 59(e). To prevail on a motion under Rule 59(e), the moving party must identify an error of law that merits reconsideration of the judgment. *See Obriecht v. Raemisch*, 517 F.3d 489, 494 (7th Cir. 2008); *Sigsworth v. City of Aurora, Ill.*, 487 F.3d 506, 511-12 (7th Cir. 2007). With respect to his bunk bed assignment, Thomas does not show that the court's decision (denying him leave to proceed under a deliberate-indifference theory) was entered in error or that he is entitled to relief from the judgment.

Accordingly, the motion for reconsideration will be denied.

Regarding Thomas's other request, he seeks clarification whether he may proceed with a claim of retaliation and with state law negligence and battery claims arising from the alleged use of excessive force. As set forth in the screening order, the court has granted Thomas's request for leave to proceed with a retaliation claim against defendant Reese. The court will also grant Thomas leave to proceed with a state law battery claim against defendant Reese. Thomas does not, however, articulate sufficient facts in support of a negligence claim under state law. Accordingly, his request for leave to proceed with a state law claim of negligence will be denied.

ORDER

IT IS ORDERED that:

1. Plaintiff Darreyll T. Thomas's motion for reconsideration regarding his request to proceed with a deliberate-indifference claim (dkt. #22) is DENIED.
2. Thomas's request for clarification of the screening order (dkt. # 22) is GRANTED. Thomas may proceed with claims of excessive-force and/or failure to intervene against defendants Michael Reese, Robin Hampton, Robert Van Norman, Christopher Larsh and John Does 1 through 5. Thomas may also proceed with claims of retaliation and state law battery against defendant Reese. Thomas's request for leave to proceed with a state law negligence claim is DENIED.

Entered this 19th day of May, 2014.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge